

IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

A.L.L. CONSTRUCTION, LLC,

Plaintiff,

v.

THE METROPOLITAN ST. LOUIS
SEWER DISTRICT, JAMES FAUL, RUBY
BONNER, REV. RONALD BOBO,
MICHAEL YATES, and JAMES I. SINGER,
in their individual capacities as the Board of
Trustees of the Metropolitan St. Louis Sewer
District,

Defendants.

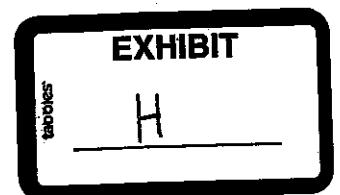
Case No: 4:17-CV-02367-AGF

JURY TRIAL DEMANDED

AFFIDAVIT OF STEVEN VALLI

I, Steven Valli, of lawful age and being duly sworn upon my oath, state that the facts following are true to the best of my knowledge, information and belief:

1. I have personal knowledge of all matters set forth in this affidavit.
2. At all relevant times, I have been the Resident Inspector within the Engineering Department of the Metropolitan St. Louis Sewer District (hereinafter "the District").
3. In my role, I supervise other project inspectors at the District and inspect ongoing construction projects as well.
4. As part of my role as resident inspector, I inspect work performed by contractors in the District's Small Contractor Program and oversee other inspectors who inspect the work of contractors in the Small Contractor Program.
5. Because of my role, I am familiar with the contractual requirements imposed on contractors in the Small Contractor Program.



6. The minimum requirements for a contractor's participation in the Small Contractor Program are set out in the one-page document titled "Small Repair Project Requirements" attached as Exhibit R to the Statement of Uncontroverted Facts.

7. Furthermore, contractors who perform work in the small contractor program are expected to follow industry standards and perform the work specified in the contracts that they are ultimately awarded.

8. A copy of the Small Repair Project Requirements document is provided to the contractors who are awarded contracts under the Small Contractor Program.

9. In November of 2015, A.L.L. was awarded a contract to raise a manhole to grade at 722 Summer Top Circle in St. Louis County.

10. On or about May 27, 2016, I became aware that the 722 Summer Top Circle project was generating ongoing complaints and issues of property damage from the property owner, who claimed to have had his sprinkler system and invisible fence damaged, along with an inadequate replacement of a concrete pad on his property near a deck.

11. I was required to address these complaints through June of 2016.

12. In February of 2016, A.L.L. was awarded another project at 1226 Dunloe Road in St. Louis County to replace an existing manhole.

13. I received a report from one of the project inspectors I supervise that on March 28, 2016, he had been called to the 1226 Dunloe Road project by A.L.L. to perform his initial inspection.

14. At the time of the initial inspection, the work was largely completed, which is a significant problem because it makes it impossible to inspect.

15. Moreover, at the beginning of each contract made in the Small Contractor Program, the contractor is asked to notify one of the District's inspectors when work is to commence.

16. The fact that the work was mostly completed before an inspector for the District had been notified meant that A.L.L. had failed to comply with this initial requirement.

17. Although the work was almost complete when my inspector reported that he was first notified by A.L.L. of the work, I made arrangements to perform an inspection and video certain portions of the main that were otherwise inaccessible.

18. On April 14, 2016, I visited the property to confirm the earlier reports from other inspectors.

19. Under the Small Repair Project Requirements, participants in Small Contractor Program are required to follow the "Standard Construction Specifications for Sewers and Drainage Facilities" attached as Exhibit N to the Statement of Uncontroverted Facts.

20. When I personally inspected the jobsite, it was apparent to me that A.L.L.'s replacement manhole was defective in a number of respects, under the Standard Construction Specifications of the District and the requirements of the contract, including, but not limited to:

- a. The fact that the manhole was meant to be a drop manhole, but the manhole that A.L.L. had installed did not have a drop as set forth in the contract documents attached as Exhibit Q to the Statement of Uncontroverted Facts;
- b. Seven feet of pipe needed to be replaced because it had not been laid in compliance with Part 4, Section D, Paragraphs 1, 2, and 3 of the Standard Construction Specifications; and,

- c. The invert at the bottom of the manhole was not appropriately constructed as required in Part 4, Section G, Paragraph 3 of the Standard Construction Specifications.

21. I and other District Engineering staff determined that the entire manhole at 1226 Dunloe Road required replacement.

22. On April 19, 2016, I participated in a meeting involving Michael Buechter, the Program Manager, Shonnah Paredes the Manager of Diversity Programs, Rich Unverferth, the District's Director of Engineering, and Brad Nevois the District's Assistant Director of Engineering-Design to discuss a possible resolution of the issues with 1226 Dunloe Road project.

23. The group determined that A.L.L. would be given an opportunity to replace the manhole by May 13, 2016 or be removed from the Small Contractor Program.

24. Michael Buechter and I called Anton Lumpkins, the head of A.L.L., and attempted to discuss the District's proposal regarding the 1226 Dunloe Road project, but the call could not be completed.

25. A.L.L. attempted to replace the manhole but failed to complete the work by May 13, 2016 as the District staff had required on April 19, 2016.

26. On May 31, 2016, I participated in a meeting with Mr. Lumpkins along with Michael Buechter, and Shonnah Paredes in which I informed Mr. Lumpkins that A.L.L. was being removed from the Small Contractor Program due to a history of poor performance and final failure correct the serious deficiencies on the 1226 Dunloe Road project.

27. Subsequent to the May 31, 2016, I participated in the process of drafting formal correspondence to A.L.L. outlining the decision to remove A.L.L. from the Small Contractor

Program and the basis for that decision, which resulted in the June 10, 2016 correspondence attached as Exhibit S to the Statement of Uncontroverted Facts.

28. Although the correspondence was dated June 10, 2016 and the process of drafting the correspondence began on June 3, 2016 to formally document the basis for the decision that had been made to remove A.L.L. from the Small Contractor Program.

29. As part of the final decision to remove A.L.L. from the Small Contractor Program, A.L.L. was allowed to attempt to become readmitted to the Small Contractor Program after a period of a year.

30. Although other staff at the District notified of the decision to remove A.L.L. from the Small Contractor Program, the decision to remove A.L.L. was the responsibility of the staff of the Engineering Department of the District.

31. The staff of the Engineering Department who participated in that decision were myself Michael Buechter, Brad Nevois, and Rich Unverferth.

32. Each of us agreed on the decision.

33. No member of the Board of Trustees participated in the process of the decision to remove A.L.L. from the Small Contractor Program.

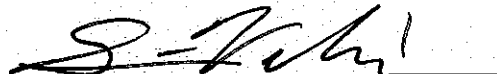
34. No member of the Board of Trustees would have had any managerial authority over the process of removing a contractor from the Small Contractor Program.

35. The decision with respect to A.L.L. was based on the pattern of poor performance that A.L.L. had demonstrated and failure to comply with the basic elements of the Small Repair Project Requirements and contract requirements for the 1226 Dunloe Road project that I referred to in this affidavit.

36. If any other contractor had exhibited the such poor performance under the Small Contractor Program, that contractor would have been removed as well.

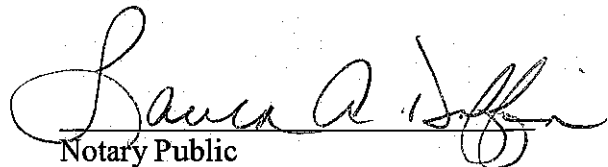
37. Although no member of the Board of Trustees of the District ever commented on the removal of A.L.L. from the Small Contractor Program, the Engineering Department of the District would have removed A.L.L. from the Small Contractor Program regardless of any Trustee's opinions on the matter.

Further affiant sayeth not.


Steven Valli

SUBSCRIBED and sworn to before me, a Notary Public, this 9th day of

May 2018.


Notary Public

My Commission Expires:

5-27-2019

